IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

WP(C).No. 23714 of 2007(W)

PETITIONER:

BABU K.,
ANJANEYAM, THEVALAKKARA, ARINALLOOR P.O.,
KOLLAM DISTRICT.
RETD. SENIOR CLERK, OFFICE OF THE GENERAL
MANAGER, BSNL, KOLLAM.

BY ADV. SRI.PRATHEESH.P

RESPONDENTS:

---

1. THE SECRETARY, REPRESENTED BY
FINANCE DEPARTMENT, THIRUVANANTHAPURAM.

2. SPECIAL DEPUTY TAHSILDAR (R.R.),
K.S.F.E. LTD., KOLLAM.

3. THE OFFICER,
DEPARTMENT OF TELECOMMUNICATION,
OFFICE OF THE CONTROLLER OF COMMUNICATION
ACCOUNTS, KERALA CIRCLE, TRIVANDRUM.

R2 BY ADV. SRI.A.M.SHAFFIQUE, SC
R3 BY ADV. SRI.K.KESAVAKUTTY, SC, BSNL
SRI.C.S.RAMANATHAN, SC, BSNL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

.....

W.P.(C) No.23714 of 2007

.....

Dated this the 14th day of August, 2007.

JUDGMENT

Heard counsel for the petitioner and Standing Counsel for BSNL. The petitioner's grievance is that on retirement, gratuity is not paid to him by the employer namely, BSNL. Standing Counsel submitted that garnishee orders are issued by KSFE for recovery of arrears due from defaulter for whom petitioner stood as guarantor. The petitioner has no escape from liability and therefore, BSNL rightly withheld the amount in terms of KSFE's request. The petitioner can proceed against the defaulter as petitioner has a right for recovery against the defaulter. However, on equitable grounds, I direct the second respondent to proceed for recovery against the defaulter details of whose properties will be furnished by the petitioner. The third respondent will withhold the amounts payable to petitioner for another two months from now within which time if recovery is effected from the defaulter, then KSFE will revoke the garnishee proceedings and petitioner can get payment. However, if no recovery is effected from the defaulter, third respondent will make payment to KSFE to the extent demanded by them and balance will be paid to the petitioner.

There will also be direction to the concerned Branch of KSFE to give detailed statement of loan account to the petitioner pursuant to which garnishee orders are issued against the petitioner, for verification.

W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms